

Statement of Rex C. Leathers
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United States Department of Transportation
Before the Subcommittee on Transportation of the
Committee on Environment and Public Works
United States Senate Concerning Buy America
Restrictions On The Use Of Foreign-made Cement

August 1, 1984

Mr. Chairman and members of the Subcommittee, I am pleased to be here to discuss the subject of Buy America restrictions on the use of foreign-made cement in Federal-aid highway projects. Prior to the enactment of the Surface Transportation Assistance Act (STAA) of 1982 on January 6, 1983, foreign-made cement was usable in Federal-aid highway projects without restriction. Section 165 of the STAA added "cement" as a specifically mentioned product to be restricted under the Buy America provision. From January 6, 1983, until the enactment of P.L. 98-229 on March 9, 1984, the use of foreign-made cement was so restricted. P.L. 98-229 deleted "cement" as a specifically mentioned product to be restricted under the Buy America statute. Accordingly, the use of foreign-made cement is no longer restricted in Federal-aid projects since March 9, 1984. The effects of the P.L. 98-229 provision on domestic cement production and the costs of highway construction are uncertain. Very little time has elapsed since March 9, 1984, for new projects and for foreign-made cement to be used more abundantly in the new projects. The data we have are sparse and largely unreliable. Attached for your information is a fact sheet which details our actions in implementing Buy America provisions since enactment of the STAA.

We estimate that the number of jobs in the domestic cement industry that would be "saved" by reimposing Buy America requirements on cement used on Federal-aid highway construction projects would be very small. The Federal-aid highway program consumes approximately six percent of the total United States cement production, but the FHWA has no data on the percentage of imported cement so used. While there could be regional impacts, it is unlikely that imported cement used in the program would have significant national impact.

Of greater importance to the cement industry nationwide than the impact of imports is the increased demand for cement associated with the higher Federal-aid program levels authorized in the STAA. Apportionments to the States between 1982 and 1983 increased by 45 percent. As these apportionments are obligated and as construction increases, the dollar outlays for cement should grow proportionately. The increased use of domestic cement associated with an expanding Federal-aid highway program should far outweigh any decreases that would be associated with allowing imported cement to be used on highway projects.

One factor which has been of great concern to FHWA as it increased its program levels, is that the real value of those dollars not be eroded by renewed inflation in highway construction costs. Even though there recently has been some excess capacity in the cement industry, not all regions of the country may be able to absorb the additional demand created by increases in highway and other public and private construction without there being upward pressure on prices. Allowing unrestricted imports of cement for Federal-aid highway construction could ease such short term pressures and contribute to maintaining the low levels of inflation in highway construction costs that have been achieved in the past several years.

For these reasons, we would oppose any expansion of the Buy America requirement for cement. That concludes my statement. I would be happy to respond to your questions.

Attachment

ATTACHMENT

Buy America

- ° Implementation of Section 165 of STAA of 1982

Status

- ° Section 165, which was effective January 6, 1983, provided with exceptions that funds authorized for Federal-aid highway projects may not be obligated unless the steel, cement, and manufactured products used in those projects are produced in the United States.
- ° An interim final rule and request for comments were published by FHWA on January 17, 1983, with an expiration date of September 30, 1983. That rule covered all cement and steel materials, with a threshold of application to projects estimated to cost more than \$450,000.
- ° The FHWA published an amendment to the interim rule effective on June 10, 1983, which eliminated the threshold, making Buy America applicable to all projects regardless of cost.
- ° Almost 600 comments were received during the comment period, which closed August 1, 1983. The principal issues brought out were that the depressed steel industry should be supported, the threshold should be lowered, asphalt should be exempted, and Canadian clinker/cement imports should be permitted.
- ° A final rule was published November 25, 1983, with an effective date of December 27, 1983. That rule made Buy America applicable to cement and steel materials. All asphalt was exempted. The rule permitted foreign steel/cement materials if using domestic materials results in a bid differential in the project cost of more than 25 percent. There is no threshold of application for this rule. Each State may impose its own more stringent Buy America rules.
- ° States were allowed to request waivers to the Buy America rule, based on public interest or the fact that the product is not available domestically. Although several waivers were requested, none were granted for cement and only a few were approved for small quantities of steel and concrete products.
- ° Pub. L. 98-229, enacted on March 9, 1984, amended Section 165(a) of the STAA of 1982 by striking the word "cement". Division Administrators were informed that in accordance with normal procedures, they may approve provisions permitting the use of foreign cement. The statute has a prospective effect only and should not be construed to permit modification of existing contracts.

- ° A final rule deleting cement from the Buy America regulation was published in the Federal Register on May 3.
- ° On April 25, Mr. Anderson of California introduced H.R. 5504 for Mr. Howard (New Jersey), Mr. Snyder (Kentucky), Mr. Shuster (Pennsylvania), and himself. Section 131(a) of that bill would amend section 165(a) of the STAA of 1982 by reestablishing Buy America requirements for cement. The restriction on cement would apply only to foreign countries located in North America. The bill would also increase the U.S. content for transit rolling stock from 50 to 85 percent. USTR, OMB, and DOT oppose the amendments.